

rejection. No new matter is added by the amendment.

Information Disclosure Statement

Applicant respectfully requests that a copy of the 1449 Form, listing all references that were submitted with the Information Disclosure Statement filed on December 29, 1999, marked as being considered and initialed by the Examiner, be returned with the next official communication.

§112 Rejection of the Claims

Claims 2 and 3 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 is cancelled without prejudice or disclaimer. Hence the rejection of claim 2 is moot. Claim 3, as amended, is directly dependent on claim 1. As such, any indefiniteness created by claim 2 is eliminated. Hence, claim 3, as amended, is not indefinite. Therefore, applicant requests withdrawal of the rejection and reconsideration and allowance of claim 3.

§103 Rejection of the Claims

Claims 1-9, 11, 14-17, and 23-60 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Givens (U.S. 2001/0045654). Claims 24, 25, 29, 55, and 60 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Givens as applied to claims 23, 26, 54, and 59. Applicant does not admit that Givens is prior art and reserves the right as provided for under 37 C.F.R. 1.131 to "swear behind" Givens. Claim 2 is cancelled, so the rejection of claim 2 is moot. Applicant respectfully traverses the rejections of claims 1, 3-9, 11, 14-17, and 23-60.

Applicant respectfully submits that Givens is not prior art under 35 U.S.C. 103(a) because Givens is a mere publication having a publication date (November 29, 2001) that is after applicant's filing date (September 2, 1999). If the office action is relying on the American Inventor's Protection Act of 1999 to establish Givens as prior art, applicant respectfully submits the following:

Any new prior art created by the changes to 35 U.S.C. 102(e) may only be applied against applications that are filed on or after November 29, 2000, and against applications filed prior to November 29, 2000 that are pending on November 29, 2000 and are voluntarily published. (MPEP 901.03 Pending Applications)

Since applicant's filing date, September 2, 1999, is before November 29, 2000 and applicant has not voluntarily published his application, Givens cannot be prior art under changes to 35 U.S.C. 102(e) as promulgated under the American Inventor's Protection Act of 1999.

Hence, the office action fails to provide references that teach or suggest each of the elements of claims 1, 3-9, 11, 14-17, and 23-60. Thus, the office action fails to state a *prima facie* case of obviousness with respect to claims 1, 3-9, 11, 14-17, and 23-60.

Claims 10-13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Givens as applied to claim 8 and further in combination with Yost et al. (U.S. Patent No. 5,444,018). Applicant does not admit that Givens is prior art and reserves the right as provided for under 37 C.F.R. 1.131 to "swear behind" Givens. Applicant respectfully traverses the rejections of claims 10-13 under 35 U.S.C. § 103(a).

For the reasons provided above, applicant respectfully submits that Givens is not prior art under 35 U.S.C. § 103(a).

Hence, the office action fails to provide references that teach or suggest each of the elements of claims 10-13. Thus, the office action fails to state a *prima facie* case of obviousness with respect to claims 10-13.

Therefore, applicant requests withdrawal of the rejections and reconsideration and allowance of claims 1, 3-17, and 23-60.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone applicant's attorney at (612) 371-2109 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date January 13, 2003

By

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CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 13 day of January, 2003.

Name

Tina Kohout

Signature

[Signature]